

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBIN BLAKE COMBS, SR.,

Plaintiff,

v.

STATE OF WASHINGTON,
WASHINGTON DEPARTMENT OF
CORRECTIONS, ELDON VAIL, BERNIE
WARNER, STEVE HAMMOND,
MICHAEL KENNEY, CARE REVIEW
COMMITTEE, RONALD FREDRICK,
TAMARA ROWDEN, ISRAEL (ROY)
GONZALEZ, JAY JACKSON, DIANA
BENFIELD, GREG GARRINGER, JOENNE
McGERR, GARY FRIEDMAN, JEFFREY A
UTTECHT, DAVID P. BAILEY, MELISSA
ANDREWJESKI, RUBY JOHNSON, MARK
BRAWDY, J. BROWN, BRYAN KING,
KEVIN K. SMITH MD, ELIZABETH
SUITER MD, DALE FETROE MD, JEAN
RYAN, ERIC ASKREN, JANE and JOHN
DOES,

Defendants.

No. C12-5280 RBL/KLS

ORDER DENYING MOTION TO STAY
AND/OR COMPEL PRODUCTION OF
DOCUMENTS AT DEFENDANTS' COST

Before the Court is Plaintiff's Motion to Stay Proceedings and/or Compel Photocopies. ECF No. 90. Plaintiff states that in response to various requests for production, Defendants responded that the documents "are available for inspection and review by Plaintiff's representative, by CD or Defendant will provide copies of the records requested at a rate of 10 cents per page in addition to postage costs." *Id.* at 3. Plaintiff states that he needs paper copies of the documents and that Defendants should pay for the production because he is indigent and

1 would otherwise incur a debt for the copying fees. *Id.* at 5. Plaintiff asks that the Court stay the
2 proceedings until Defendants reach a decision regarding this issue or to compel the production of
3 the copies at Defendants' expense. *Id.* at 6.

4 The Court has reviewed the motion (ECF No. 90), Defendants' response (ECF No. 94),
5 and Plaintiff's reply (ECF No. 98), and finds that the motion should be denied.

6 DISCUSSION

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8 Fed. R. Civ. P. 34(a)(1) requires the party upon whom the discovery request was served
9 "to produce and permit the requesting party or its representative to inspect, copy, test or sample
10 ..." the items that are deemed responsive to his request. Nothing in Rule 34 requires the
11 producing party to bear the costs associated with the production.

12 Defendants provided Plaintiff with three options to inspect the documents responsive to
13 his discovery requests. The documents would be (1) made available for inspection and review
14 by Plaintiff's representative; (2) produced on CD; or (3) copied at a rate of 10 cents per page in
15 addition to postage costs. ECF No. 90 at 3. According to Defendants, Plaintiff has propounded
16 almost 1,000 requests for admissions, interrogatories, and requests for production and to date,
17 has been provided 5,061 pages of documents on CD. ECF No. 94 at 1. Defendants' production
18 and alternative options provided to Plaintiff clearly comport with the requirements of Rule 34
19 and therefore, the motion to compel shall be denied.
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21 Although Plaintiff is proceeding *in forma pauperis* in this lawsuit, he is not relieved of
22 his responsibility to fund his litigation and to pay for his discovery costs. *See, United States v.*
23 *MacCollom*, 426 U.S. 317, 321, 96 S.Ct. 2086, 2089, 48 L.Ed.2d 666 (1976) ("the expenditure of
24 public funds [on behalf of an indigent litigant] is proper only when authorized by Congress ...").
25 The *in forma pauperis* statute, 28 U.S.C. § 1915, provides for the payment of filing fee and
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1 service of process only. In *Silva v. Di Vittorio*, 658 F.3d 1090 (9th Cir.2011), the Ninth Circuit
2 reiterated the limited role of prison authorities in assisting prisoners with their litigation. Prison
3 authorities are only required to assist inmates in the preparation and filing of meaningful legal
4 papers by providing prisoners with adequate law libraries or adequate assistance from persons
5 trained in the law. *Silva*, 658 F.3d at 1102 (quoting *Bounds v. Smith*, 430 U.S. 817, 828, 97 S.Ct.
6 1491, 52 L.Ed.2d 72 (1977)). The Court further held that this assistance is only limited to the
7 pleading stage. *Id.* (citing *Lewis v. Casey*, 518 U.S. 343, 384, 116 S.Ct. 2174, 135 L.Ed.2d 606
8 (1996)).
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10 Accordingly, it is **ORDERED**:

11 (1) Plaintiff's motion to compel and/or stay (ECF No. 90) is **DENIED**.

12 (2) The Clerk shall send a copy of this Order to Plaintiff and to counsel for
13 Defendants.
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15 **DATED** this 2nd day of May, 2013.

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17 Karen L. Strombom
18 United States Magistrate Judge
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